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7 **UNITED STATES DISTRICT COURT**
8 **NORTHERN DISTRICT OF CALIFORNIA**
9 **OAKLAND DIVISION**

10 **ABANTE ROOTER AND PLUMBING,**
11 **INC.**, individually and on behalf of all others
similarly situated,

12 Plaintiff,

13 v.

14 **UNLOCKED BUSINESS STRATEGIES,**
15 **INC.**, a New York corporation, **THOMAS R.**
16 **COSTA**, an individual, and **MERCHANT**
INDUSTRY, LLC d/b/a SWIPE4FREE, a
New York limited liability company,

17 Defendants.
18

Case No. 4:19-cv-07966-JST

**[PROPOSED] ORDER GRANTING
PLAINTIFF'S MOTION FOR CLASS
CERTIFICATION**

Date: TBD

Time: TBD

Judge: Hon. Jon S. Tigar

Courtroom: 6, 2nd Floor

19 WHEREAS, an alleged class action is pending before this Court entitled *Abante Rooter*
20 *and Plumbing, Inc. v. Unlocked Business Strategies, Inc., et al.*, Case No. 4:19-cv-07966-JST;
21 and

22 WHEREAS, the Court has read and considered Plaintiff's Motion for Class Certification
23 and the exhibit attached thereto ("Motion"). The Court, being fully advised in the premises, finds
24 good cause being shown,

25 **IT IS HEREBY ORDERED, DECREED, AND ADJUDGED AS FOLLOWS:**

- 26 1. The Court finds as follows as to each of the requirements of Rule 23(a):
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- a. The Class is so numerous that joinder of all members is impractical;
 - b. There are questions of law and fact common to the Class and, thus the commonality requirement is met;
 - c. Plaintiff's claims are typical of the Class's claims; and
 - d. Both Plaintiff and its counsel have no interests adverse to the Class and are adequate representatives.
2. The Court finds that Defendants have acted or refused to act on grounds generally applicable to the Class so as to justify certification pursuant to Rule 23(b)(2).
 3. The Court also finds that the requirements to certify the Class pursuant to Rule 23(b)(3) are satisfied as well because common questions of law and fact predominate, and the class action mechanism is superior to all other available methods of adjudication.
 4. Based upon the foregoing reasons, the Court grants Plaintiff's motion for class certification and finds that Plaintiff's Complaint satisfies the requirements of Rule 23 and therefore certifies the following Class:

Autodialed Cellphone Class: All persons in the United States who (1) on or after December 4, 2015 through the date notice is sent to the Class; (2) Defendants caused to be called; (3) on the person's cellphone; (4) for the same purpose as Defendants called Plaintiff, including for the potential purpose of selling Defendants' products; (5) from the telephone number (888) 824-6643; (6) using the same equipment that was used to call the Plaintiff, and (7) for whom Defendants claims they obtained prior express consent in the same manner as Defendants claims they obtained any prior express consent to call the Plaintiff.

5. The Court appoints Abante Rooter and Plumbing, Inc. as Class Representative; and
6. The Court appoints the Patrick H. Peluso and Taylor T. Smith of Woodrow & Peluso, LLC as Class Counsel.

IT IS SO ORDERED.

Dated: _____

Hon. Jon S. Tigar
United States District Judge